

As discussed at the interview, at least two explicit features of independent claim 1 are not disclosed at all in the '951 reference. Claim 1 requires an oscillator having an arrangement for alternately introducing a volume of additional gas, in addition to the bias gas, *into the first gas conduit*, and for withdrawing *at least the volume of gas* from the first gas conduit. The Examiner relied on language in the '951 reference at column 5, lines 33-40 as, according to the Examiner, teaching these limitations, however, Applicants submit this language does not teach introducing a volume of additional gas into the *first gas conduit* (as that component has been defined by the Examiner in the '951 reference), nor does the '951 reference teach withdrawing at least an equal amount of this additional gas.

The language at column 5, lines 33-40 in the '951 reference cited by the Examiner merely describes the generation of a lower pressure via the tube 30. The purpose of this lower pressure (which is never stated to be a negative pressure) is merely to allow the patient to naturally exhale. There is no statement in the '951 reference that there is any gas that is actually added or withdrawn to the first conduit, nor is there any discussion whatsoever (and no need for any such discussion) to introduce an amount of gas and then withdraw an amount that is at least equal to the introduced amount.

At the interview, the Examiner also cited language in the '951 reference at column 5, lines 51-58, regarding adjustment of the various pressures supplied via the first and second tubes 29 and 30. Although this paragraph refers to positive and negative peak pressures of the respiration gas being separately determined in compliance with the patient conditions, this says nothing about the possibility or

desirability of any of the supplied gases that are at issue in claim 1 as being at a negative pressure.

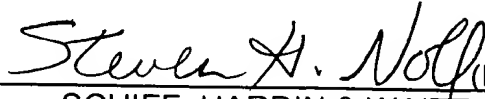
Therefore, the '951 reference does not explicitly disclose these limitations of independent claim 1. Moreover, there is no evidence in the '951 disclosure that operation of the system described therein in a manner comparable to that set forth in claim 1 would be, or could be, inherent. Claim 1 and claims 2-7 depending therefrom, therefore, are not anticipated by the '951 reference.

Claim 9 was rejected under 35 U.S.C. §103(a) as being unpatentable over the '951 reference. Claim 9 depends from independent claim 1 and therefore includes the above-discussed limitations of claim 1, which are not disclosed or suggested in the '951 reference. Applicants do not acknowledge that it would even be possible to modify the system disclosed in the '951 reference to operate as set forth in claim 1 of the present application, however, at a minimum for a modification of the '951 system for that purpose, it would be necessary for a person of ordinary skill in the art to have information regarding specific pressures, conduit diameters, etc. in the '951 system in order to operate that system to withdraw an amount of additive gas that is at least equal to the introduced amount of additive gas. In the absence of any such information in the '951 reference, a person of ordinary skill in the art not only has insufficient information, but has no motivation whatsoever, to modify the '951 system to arrive at the subject matter of claim 9. Claim 9, therefore, would not have been obvious to a person of ordinary skill in the art based on the teachings of the '951 patent.

All claims of the application are therefore submitted to be in condition for allowance, and early reconsideration of the application is respectfully requested.

Since this Response does not make any amendment to the claims, it is properly enterable after the final rejection.

Submitted by,

 (Reg. 28,982)

SCHIFF, HARDIN & WAITE

CUSTOMER NO. 26574

Patent Department

6600 Sears Tower

233 South Wacker Drive

Chicago, Illinois 60606

Telephone: 312/258-5790

Attorneys for Applicant(s).

CH1\4074410.1